

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.1036 of 2025**

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Gudiya Kumari wife of Mukesh Kumar, resident of Village and Post Office-  
Pokharpur, Police Station-Giriyak, District-Nalanda (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary Land Reforms and Revenue, Bihar, Patna.
2. The Additional District Magistrate cum Additional Collector, Nalanda.
3. The Deputy Collector Land Reforms, Rajgir, Nalanda.
4. The Circle Officer, Giriyak, Nalanda.
5. Vikash Kumar, son of Vinod Prasad Singh, resident of Village-Pokharpur, Post Office-Pokharpur, Police Station-Giriyak, District-Nalanda.
6. Vinod Prasad Singh, son of Late Rajendra Prasad Singh, resident of Village-Pokharpur, Post Office-Pokharpur, Police Station-Giriyak, District-Nalanda.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Aklavya Chandan Kumar  
For the Respondent/s : Ms. Nutan Kumari Sharma, AC to SC-21

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**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA**  
**ORAL ORDER**

2      28-01-2025              1.    Heard learned counsel for the petitioner and the  
learned AC to SC-21.

2.    Learned counsel appearing on behalf of the State  
submits that there is no infirmity in the order impugned in the  
instant writ application. Learned State counsel after perusing the  
pleadings made in the instant writ application and the facts  
recorded in the order impugned submits that petitioner had  
purchased land pertaining to Khata No. 347, Khesra No. 1708,  
Area 4.25 decimal at Mauja-Pokharpur, Thana No. 332, Circle  
Giriyak, District Nalanda vide registered Sale Deed No. 3883



dated 18-7-2018 (Annexure-2) from Vinod Prasad Singh (Respondent No. 6).

3. It is next submitted that the land in dispute was the ancestral property of Respondent No. 6 and his family members. It is next submitted that Respondent No. 5 (Vikash Kumar) is son of Respondent No. 6, the Respondent No. 5 filed Title Suit No. 237 of 2012 in which the Respondent No. 6 and other family members were impleaded as defendants for partitioning the joint family property which also included the land in dispute. The suit was decreed by the learned civil court in favour of Respondent No. 5 and the Respondent No. 5 was found entitled to 16.66 percent share in the property like other members of the joint family. The learned civil court ordered to carve out the share of Respondent No. 5 herein by separating the suit property by metes and bounds by appointing a Survey Knowing Pleader Commissioner at the cost of the parties. It is next submitted that the Survey Knowing Commissioner submitted his report dated 21-12-2017 before the learned civil court after carving share of different parties including the Respondent No. 5 herein as per valuation and grading. The disputed land came in the share of Respondent No. 5.

4. The learned counsel appearing on behalf of the



State submits that since the land in dispute came in the share of Respondent No. 5 as per report of the Advocate Knowing Commissioner dated 21-12-2017, which was accepted by the learned civil court, as such the Respondent No. 6 was not entitled to sell the land in dispute in the year 2018 to the petitioner.

5. The learned State counsel further submits that petitioner after purchasing the land filed Mutation Case No. 929R27/2019-20 before the Circle Officer, Giriyak, who based on an enquiry report of the *halka karamchari*, without holding a spot inspection, mutated the land in the name of the petitioner vide order dated 24-11-2019 (Annexure-3). The learned State counsel next submits that from perusal of Annexure-P/3 at page 46, it would manifest that rent receipt is issued but then jamabandi with respect to the land in name of the petitioner was not created, the said fact is not disputed by the learned counsel appearing on behalf of the petitioner also.

6. The learned State counsel submits that Respondent No. 5 herein filed Mutation Appeal No. 16/2020-21 before the D.C.L.R. (Respondent No. 3) against the order of the Circle Officer dated 24-11-2019 in Mutation Case No. 929R27/2019-20, the Mutation Appeal No. 16/2020-21 was allowed by the



Respondent No. 3 by an order dated 14-8-2021 (Annexure-4) against which petitioner filed Mutation Revision Case No. 14/2021 before the Additional Collector, Nalanda, the Mutation Revision Case No. 14/2021 came to be dismissed by an order dated 7-1-2023 (Annexure-6) passed by the Additional Collector, Nalanda, accordingly the petitioner filed BLT Case No. 739 of 2023 before the learned BLT assailing the order dated 14-8-2021 and 7-1-2023 passed by the D.C.L.R and the A.D.M in Mutation Appeal No. 16/2020-21 and Mutation Revision Case No. 14/2021 respectively.

7. The learned State counsel next submits that learned Chairman, BLT, after hearing the parties, dismissed the BLT Case No. 739 of 2023 by an order dated 13-8-2024, which is impugned in the instant writ application. The learned State counsel further submits that the learned Chairman, BLT, while dismissing BLT Case No. 739 of 2023, took note of the fact that Respondent No. 6, before the ADM, had accepted that his another son Pravin Kumar had fraudulently got the sale deed executed by him with regard to the land in dispute in favour of the petitioner, further the C.O had allowed mutation in favour of the petitioner without holding a spot inquiry, further the petitioner has also filed a suit for permanent injunction vide T.S.



No. 362 of 2021, which is pending adjudication in the court of learned Sub-Judge-Ist, Nalanda, thus the learned Chairman, BLT, held that the DCLR and the ADM rightly based on the judgment and decree passed in TS No. 237 of 2012 dismissed the appeal and revision.

8. The learned counsel appearing on behalf of the petitioner rebuts the submission of the learned State counsel and submits that the report of the *karamchari* dated 18-7-2019 does not mention that spot inspection was not done, further Sections 5 and 6 of the Bihar Land Mutation Act 2011 read with Rules 5 and 6 of the Bihar Land Mutation Rules 2012, it would manifest that the same does not provide any mandatory procedure for spot inspection as mode of enquiry, as such the finding of the learned Chairman, BLT, holding that the order of mutation was passed by the Circle Officer based on an enquiry of *halka karamchari* without holding spot inspection himself is unfounded.

9. The learned counsel for the petitioner next submits that a specific pleading has been made at para-24 of the writ application that the petitioner after purchasing the land in dispute came in actual physical possession of the same and even got the land mutated, on which the learned State counsel



submits that if petitioner is in possession, why is he before this Court? It is submitted that it is settled principle of law that person in possession has to be evicted in accordance with law.

**10.** The learned State counsel further at the cost of repetition reiterates and submits that the petitioner has already filed Title Suit No. 362/2021, which is pending adjudication in the court of learned Sub-judge-Ist, Nalanda, as such rushing to this Court was uncalled for.

**11.** At this stage, the learned counsel appearing on behalf of the petitioner submits that Respondent No. 5 had filed Mutation Appeal No. 16 of 2020-21 beyond the period of limitation, as such the DCLR ought not to have entertained the same, on which the learned State counsel submits that the said plea, it appears, was not raised either before the revisional court or the BLT as from perusal of the order of the revisional court and the BLT, it would manifest that the same does not even remotely suggest that such plea was taken.

**12.** The learned State counsel further submits that what is not in dispute rather stands admitted is that in pursuance of judgement and decree passed in T.S. No. 237 of 2012, the land in dispute fell in the share of Respondent No. 5 in the year 2017 itself and the father of the Respondent No. 5, i.e., Respondent



No. 6, before the ADM admitted that his another son, Pravin Kumar, made him execute the sale deed in favour of the petitioner fraudulently. It is also submitted by the learned State counsel that since the entire transaction was done fraudulently, as such the authority while dealing with the application of the petitioner, came to a considered conclusion that the order of mutation was bad, as such it is submitted that there is no infirmity in the order passed by the learned Chairman, BLT.

13. After hearing the learned counsel for the parties, the Court concurs with the submission made by the learned counsel appearing on behalf of the State and thus finds no merit in the writ application, accordingly the writ application is dismissed.

(Satyavrat Verma, J)

SUMIT/-

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